

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

January 31, 2020

**Return Receipt Requested**

Certified Mail#: 7015 3010 0001 1267 2149

**In Reply Refer to:**

EPA Case No. 03R-19-R3

Samuel A. Caperton  
Cabinet Secretary  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

**Re: Informal Resolution/Tolling of Investigative Timeframe**

Dear Secretary Samuel A. Caperton:

This letter concerns EPA Complaint No. 03R-19-R3, which was accepted October 17, 2019. The U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is required by regulation to seek cooperation with recipients in securing compliance with 40 C.F.R. Parts 5 and 7 through informal and voluntary means.<sup>1</sup> The process of developing and executing an Informal Resolution Agreement (IRA) was described to Jeffrey Dye of the West Virginia Department of Environmental Protection (WVDEP) during a telephone conversation on January 14, 2020. ECRCO received correspondence from the WVDEP on January 28, 2020, informing our office that the WVDEP has agreed to engage in negotiations toward the execution of an IRA. Accordingly, as of January 28, 2020, ECRCO and the WVDEP have commenced informal resolution agreement discussions. ECRCO, therefore, will suspend its investigation and toll the 180-day investigation timeframe in 40 C.F.R. § 7.115(c)(1) for the duration of the informal resolution agreement process. ECRCO will ensure that this process occurs without undue delay.

If the informal resolution process fails to result in an IRA between ECRCO and the WVDEP, ECRCO will notify the WVDEP that ECRCO has resumed its investigation and will issue preliminary findings within 180 days of the start of the investigation – excluding any days spent in the informal resolution agreement process.<sup>2</sup> To facilitate the informal resolution agreement process, we will soon be providing you with a draft IRA for review and consideration.

If you have questions about this letter, please feel free to contact me at (202)564-9649, or by email at dorka.lilian@epa.gov, or Jonathan Stein, ECRCO Case Manager, at (202)564-2088, by email at stein.jonathan@epa.gov. Either of us may be reached by mail at U.S. EPA External

<sup>1</sup> See 40 C.F.R. § 7.105 (EPA "shall seek the cooperation of applicants and recipients in securing compliance with" 40 C.F.R. Part 7); and 7.120(d)(2) (EPA "shall attempt to resolve complaints informally whenever possible.").


<sup>2</sup> See 40 C.F.R. § 7.115(c).

Secretary Samuel A. Caperton

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Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW,  
Washington, D.C. 20460.

Sincerely,

A handwritten signature in black ink, appearing to read "L.S. Dorka".

Lilian S. Dorka  
Director  
External Civil Rights Compliance Office  
Office of General Counsel

cc: Angelia Talbert-Duarte  
Acting Associate General Counsel  
Civil Rights & Finance Law Office

Dianne Esher  
Deputy Regional Administrator  
US EPA Region 3

Cecil Rodrigues  
Regional Counsel  
Deputy Civil Rights Official  
U.S. EPA Region 3